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Wikileaks: how Web Technologies are changing the game for Freedom of Information.

LSE Ideas

By Felipe Heusser

A true information and political earthquake resulted from the collision of the two great plates of internet freedom and US diplomacy. The epicenter? Wikileaks, a well known website led by Julian Assange since 2006 that encourages online whistle-blowing with the guarantee to keep the source a secret. Coming from Chile, it is difficult for me not to think about earthquakes when describing such a big political crash. However, being fair with Wikileaks, earthquakes have a doubtless destructive power that the website arguably does not have: at least the picture of Wikileaks is one of a rich variety of grey, rather than plain black or white.

Much has been said about the journalistic nature of Wikileaks, or the underlying motivation that has driven Assange to publish nearly 250,000 cables linked to US diplomacy. More interesting than the latter, some groups have argued that what we really witness is the struggle for Internet freedom. A battle where the real heart of the Web has been challenged, unveiling the uncomfortable truth of a Net that is much more controlled than we thought. Doug Rushkoff expresses the case: "the Net is a great illusion of democracy... a top-down structure driven by ads" (Rushkoff, Doug in the Personal Democracy Forum Symposium on Wikileaks and Internet Freedom, December 11th, 2010) or at least by a small number of clearly identifiable interests. Having all this translated into the language of political science, one could argue that free access to the Net is a policy driven by few but powerful veto-players which control a vast part of the institutions that give life to the world wide web.

I subscribe the idea of those who argue that focus should be given to the implications of Wikileaks for the case of Internet freedom; it's an exciting debate to have. But perhaps a prior debate to the one of Internet Freedom, has to do with Freedom of Information itself. That's right, the old right to request and communicate public information recognized since 1948 as a human right and essential complement to the very right to freedom of expression. After all, in simple, the core debate behind Wikileaks is whether citizens have or not have the right to know, and under what circumstances. Answers to most of these questions are offered by Freedom of Information Acts (FOIA) which have spread around the world since the first Swedish law of 1776, followed by the US FOIA (that this year celebrates its 34th birthday) reaching today almost 80 countries under some sort of FOI regulation.

Freedom of Information laws basically recognize the right to access public information no matter if such has been obtained due to proactive disclosure by a public agency, because of an answer to a particular information request, or because of sharing with someone who previously obtained public information. The right to information is recognized as the general rule for every governmental record or information that is an accessory to such a record. This general rule allows limitations or exceptions, typically when transparency affects personal privacy, national security, international relations, crime prosecution, public health and the economy, among other examples. Curiously enough, the typology of FOI exceptions are fairly the same among a rich variety of countries ranging from the United States to Chile, China, South Africa, the United Kingdom, Uruguay, or even autocratic Zimbabwe. What makes the FOI exception-regime different among countries is not the letter of the law (FOIA) but the actual interpretation of the norm, and the role played by the institutions of a particular country.

In the words of institutional theorists such as Peter Hall and David Schonkige (see Hall, Peter and Soskice, David (2001) in *Varieties of Capitalism*, Oxford University Press), agents and institutions set a particular historical path through which every policy innovation must walk through, so that FOI, and Internet-Freedom are no exception to this rule, at least in theory. To say that institutions and agents frame particular policy innovations is perhaps one of the oldest ideas in political theory; Change is difficult, and because it is resisted by institutions, agents and veto-players, policy change often moves only incrementally (see Lindblom, Charles (1959) "The Science of Muddling Through", *Public Administration Review*, Vol. 19, pp. 79–88, 1959). Applying this principle, countries with similarities in their Freedom of Information laws but with differences in terms of the applied institutional settings, should exhibit also different transparency outcomes.

The use of the word "should" has been well-picked. It is true that in most cases, the luck of transparency policies will depend on the actors and institutions involved, but this is not the case for online FOI policies such as, for example, open data platforms.

What I aim to argue is that web-technologies such as the one applied by Wikileaks is changing the rules of Freedom of Information. This is happening not only in infrastructure terms (such as the online proactive disclosure of public records, and the exchange of info requests and responses by electronic means) but also in more substantive terms. Returning to

institutional theory, I argue that the proactive disclosure of online data (not only documentation) by-passes, at least partially, the institutional settings that right constraint the release of public information, in a way that there are no institutions nor agents filtering public information flows, or separating information requesters (typically citizens) from online public data. The partiality of this effect remains because, there still is someone who has to decide whether to publish online public data in the first place.

However, even this potential constraint is limited giving that such person cannot (even with the intention of filtering transparency) anticipate the use that information softwares can give to that particular piece of information, by cross-referencing this data with other sources of information. In this sense, information that in a first glance may seem harmless, can be extremely sensible when crossed with another set of public data. Wikileaks even takes a few steps further in the FOI rule-changing idea, so that access to governmentally held information is possible no matter if its with or without authorization. The limit seems to be online availability of data; if its online, Wikileaks can probably obtain the information even if its secret, it is just a matter of time.

To conclude: the rise of web-technologies is changing the rules of the Freedom of Information game, traditionally framed by particular country agents and institutions. Webtechnologies partially by-pass these bodies, reducing the gap that separated information requesters from online data-bases. Additionally, web-technologies are opening new prospectus for the use and re-use of public information thanks to sophisticated software technology. Wikileaks is an example of the web-technology for transparency ([Technology for Transparency Project](#), Global Voices) phenomenon, that even crosses the frontiers of what is known as public or private.

To revisit the debate on Freedom of Information, and how this is influenced by the new means of web-technologies, seems strongly advisable. Wikileaks offers new insights to this conversation by making pretty much evident the role that web-technologies can play for the purpose of Transparency, and also by providing us with a rich case-study where the limits of publicity and privacy are put into question. Finally, Freedom of Information Law offers limits or exceptions to transparency and access to public information, but these law provisions will have to change such as the overall FOI game is changing due to Web technology.

Wikileaks is only the beginning.

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